

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

BERKENSTAM et al.

Application No.: 09/896,791

Art Unit: 1642

Filed: June 29, 2001

Examiner: Gary B. Nickol

Title: INHIBITORY PAS DOMAIN PROTEIN (IPAS) AND SCREENING  
METHODS RELATED TO ANGIOGENESIS AND TUMOR  
PROGRESSION

PETITION TO WITHDRAW HOLDING OF ABANDONMENT  
UNDER 37 C.F.R. §1.181

Mail Stop Petition  
Commissioner for Patents  
PO BOX 1450  
Alexandria, Virginia 22313-1450

Via facsimile to 571 273 8300  
Page 1 of 5

Sir:

A Notice of Abandonment was erroneously issued in the above-noted case; withdrawal of the same and prompt issuance of the patent is respectfully requested. A copy of the Notice is attached.

A Notice of Allowability was mailed on September 6, 2005, indicating the Issue Fee was due by December 6, 2005. The Issue Fee Transmittal attached thereto incorrectly identified the Applicant as a large entity, and therefore listed the fees due as \$1700 (\$1400 Issue Fee, \$300 Publication Fee).

On December 2, 2005, Applicant paid the Issue Fee. The transmittal was marked to indicate Applicant is a small entity and the total fees due were therefore \$1000. Section 4a of the transmittal indicates Applicant authorized the Director to charge the Issue and Publication fees to Deposit Account No. 501249, which contained sufficient funds for the charge. Section 5 further noted that Applicant claimed small entity status. A copy of the transmittal printed from the USPTO's PAIR page is attached.

As the Applicant timely indicated the entire fee should be taken from a deposit account containing sufficient funds, the holding of abandonment is incorrect; the



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issue and publication fees have been properly paid and the patent should proceed to issue.

It is therefore believed that a Petition to Withdraw Holding of Abandonment under 37 C.F.R. §1.181 is appropriate. Should the Office of Petitions determine instead that the application is in fact abandoned Applicants hereby request the presently-filed petition be considered as a petition to revive, the fee for which may be deducted from Deposit Account no. 501249. Applicants also concurrently request refund of the Petition Fee as the holding of abandonment, if maintained, is due to a USPTO error.

Should there be any questions in regard to this Petition a telephone call to the undersigned is appreciated.

Respectfully Submitted,



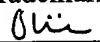
Olivia Tolan, Reg. No. 45,161

April 19, 2006

ALBIHNS STOCKHOLM AB  
Box 5581  
SE-114 85 Stockholm, Sweden  
tel +46 (0) 8 5988 7200  
fax +46 (0) 8 5988 7300  
Customer No. 26288

**Certificate of Transmission**

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office (Fax. No. 571 273 8300) on April 19, 2006.

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Olivia Tolan



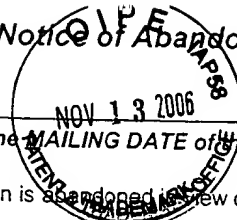
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,791	06/29/2001	Anders Berkenstam	76272	8306
26288	7590	04/06/2006		
ALBIHNS STOCKHOLM AB BOX 5581, LINNEGATAN 2 SE-114 85 STOCKHOLM; SWEDEN STOCKHOLM, SWEDEN				
			EXAMINER NICKOL, GARY B	
			ART UNIT 1642	PAPER NUMBER
DATE MAILED: 04/06/2006				



Please find below and/or attached an Office communication concerning this application or proceeding.

# Notice of Abandonment



09/896,791

Examiner

NICKOL

BERKENSTAM

Art Unit

1642

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address-

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - ☒ The submitted fee of \$300 is insufficient. A balance of \$1400 is due.  
The issue fee required by 37 CFR 1.18 is \$1400. The publication fee, if required by 37 CFR 1.18(d), is \$300.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

lgd

Attempts to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



12/02 11:04 TEL +46859887300

ALBIHNS STOCKHOLM AB

001/001

## PART B - FEE(S) TRANSMITTAL

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Complete and send this form, together with applicable fee(s), to: Mail

Mail Stop ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
(571) 273-2885

or Fax

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

26288 7590 06/06/2005

ALBIHNS STOCKHOLM AB  
BOX 5581, LINNEGATAN 2  
SE-114 85 STOCKHOLM; SWEDEN  
STOCKHOLM,  
SWEDEN

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

## Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

OLIVIA TOLAN	(Depositor's name)
<i>Olivia</i>	(Signature)
02 DEC 2005	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,791	06/29/2001	Anders Berkenstam	76271	8306

TITLE OF INVENTION: SCREENING METHODS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	<del>NO</del> YES	\$1400	\$300	<del>\$1700</del> \$1000	12/06/2005

EXAMINER	ART UNIT	CLASS-SUBCLASS
NICKOL, GARY B	1642	435-007230

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

ALBIHNS STOCKHOLM AB

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

ANGIOGENETICS SWEDEN AB

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

GOTHENBURG, SWEDEN

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☒ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

- ☒ Issue Fee
- ☒ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s):

- ☐ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.

☒ The Director is hereby authorized by check the required fee(s), or credit any overpayment, to Deposit Account Number 501249 (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

☒ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant, a registered attorney or agent, or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

*Olivia*

Date 02 DEC 2005

Typed or printed name

OLIVIA TOLAN

Registration No.

45.161

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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PTOL-85 (Rev. 07/03) Approved for use through 04/30/2007.

OMB 0631-0033 U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

12/02/2005 CNGUYEN1 00000014 501249 09896791

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PAGE 1/1 \* RCVD AT 12/22/2005 5:13:27 AM [Eastern Standard Time] \* SVR:USPTO-EFXRF-6/24 \* DNIS:2732885 \* CSID:46859887300 \* DURATION (mm:ss):00:50

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\*\*\* SÄNDNINGSKVITTO \*\*\*  
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SÄNDNING OK

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Attorney Docket No. 76272

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of  
BERKENSTAM et al.

Application No.:	09/896,791	Art Unit:	1642
Filed:	June 29, 2001	Examiner:	Gary B. Nickol
Title:	INHIBITORY PAS DOMAIN PROTEIN (IPAS) AND SCREENING METHODS RELATED TO ANGIOGENESIS AND TUMOR PROGRESSION		

PETITION TO WITHDRAW HOLDING OF ABANDONMENT  
UNDER 37 C.F.R. §1.181

Mail Stop Petition  
Commissioner for Patents  
PO BOX 1450  
Alexandria, Virginia 22313-1450

Via facsimile to 571 273 8300  
Page 1 of 5

Sir:

A Notice of Abandonment was erroneously issued in the above-noted case; withdrawal of the same and prompt issuance of the patent is respectfully requested. A copy of the Notice is attached.

A Notice of Allowability was mailed on September 6, 2005, indicating the Issue Fee was due by December 6, 2005. The Issue Fee Transmittal attached thereto incorrectly identified the Applicant as a large entity, and therefore listed the fees due as \$1700 (\$1400 Issue Fee, \$300 Publication Fee).

On December 2, 2005, Applicant paid the Issue Fee. The transmittal was marked to indicate Applicant is a small entity and the total fees due were therefore



**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)  
70100-76272

First named inventor: Berkenstam

Application No.: 09/896,791

Art Unit: 1642

Filed: June 29, 2001

Examiner: Nickol, Gary B.

Title: INHIBITORY PAS DOMAIN PROTEIN (IPAS) AND SCREENING METHODS RELATED TO ANGIOGENESIS AND TUMOR PROGRESSION

Attention: Office of Petitions  
**Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

- ☒ Small entity-fee \$ 750 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
- ☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

**2. Reply and/or fee**

- A. The reply and/or fee to the above-noted Office action in the form of Amendment (identify type of reply):
- ☐ has been filed previously on \_\_\_\_\_.
- ☒ is enclosed herewith.
- B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_.
- ☐ has been paid previously on \_\_\_\_\_.
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

<u>Olivia</u> Signature	<u>March 14, 2005</u> Date
<u>Olivia Tolan</u> Typed or printed name	<u>45,161</u> Registration Number, if applicable
<u>Albthns Stockholm AB</u> Address	<u>+46 (0) 8 5988 7200</u> Telephone Number
<u>BOX 5581, Stockholm 11485 SWEDEN</u> Address	

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: \_\_\_\_\_

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

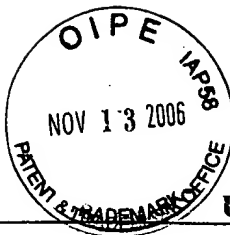
☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☒ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (703) 872-9306.

March 14, 2005  
Date

Olivia  
Signature  
Olivia Tolan  
Typed or printed name of person signing certificate





UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

ALBIHNS STOCKHOLM AB  
BOX 5581, LINNEGATAN 2  
SE-114 85 STOCKHOLM; SWEDEN  
STOCKHOLM SE SWEDEN

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Director's Office  
Office of Patent Publication

In re Application of

Berkenstam Anders et al

Application No. 09/896,791

Filed: June 29, 2001

Attorney Docket No. 76272

DECISION ON PETITION

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark Office (USPTO) on April 19, 2006, under 37 CFR 1.181.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO (2) MONTHS from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed September 6, 2005. The Notice of Abandonment, mailed on April 6, 2006 indicates, "The submitted fee of \$300.00 is insufficient. A balance of \$1,400 is due.

The Office acknowledges receipt of Part B – Fee(s) Transmittal on December 2, 2005, authorizing that the Issue Fee be charged to Deposit Account No. 50-1249. On December 2 2005, when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account to charge the required fee.

37 CFR 1.25 (a) and (b), which states in part:

1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."

1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website <http://www.uspto.gov>)

- Under 37 CFR 1.137(a), a petition for the revival of an *unavoidable* abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an *unintentionally* abandoned application

Further inquiries with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

*By mail:*                      Mail Stop Petitions  
Commissioner for Patents  
Office of Petitions  
P O Box 1450  
Alexandria, VA 22313-1450

Telephone inquiries concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 153.



Cheryl Mcleod  
Quality Operations Assistant  
Office of the Director  
Office of Patent Publications

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